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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,219	09/10/2003	Andre Jeutter	2001P17947WOUS	5692
7590	05/15/2009		EXAMINER	
SIEMENS CORPORATION INTELLECTUAL PROPERTY DEPT. 170 WOOD AVENUE SOUTH ISELIN, NJ 08830			WONG, EDNA	
			ART UNIT	PAPER NUMBER
			1795	
			MAIL DATE	DELIVERY MODE
			05/15/2009	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* BANDRE JEUTTER and WERNER STAMM

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Appeal 2009-2979  
Application 10/659,219  
Technology Center 1700

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Decided:<sup>1</sup> May 15, 2009

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Before EDWARD C. KIMLIN, CHARLES F. WARREN, and  
LINDA M. GAUDETTE, *Administrative Patent Judges*.

KIMLIN, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1-2, 4-14, and 16-18. We have jurisdiction under 35 U.S.C. § 6(b).

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<sup>1</sup> The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, begins to run from the Decided Date shown on this page of the decision. The time period does not run from the Mail Date (paper delivery) or Notification Date (electronic delivery).

Claim 1 is illustrative:

1. A method for coating a substrate having at least one hole, comprising:

covering the at least one hole with a plug;

applying at least one layer to a surface of the substrate via a low-temperature coating process; and

irradiating a near-surface region of the coating layer to improve adhesion of the coating layer to the substrate, and to ensure homogenization of the coating layer without homogenizing a region of the substrate located laterally adjacent the homogenized region.

The Examiner does not cite prior art in the rejection of the appealed claims.

Appellants' claimed invention is directed to a method for coating a substrate comprising, *inter alia*, applying a layer to a surface of the substrate and irradiating a near-surface region of the coating layer to improve adhesion of the coating to the substrate. The radiation insures homogenization of the coating layer without homogenizing a region of the substrate that is located laterally adjacent to the homogenized region of the coating.

Appealed claims 1, 2, 4-14, and 16-18 stand rejected under 35 U.S.C. § 112, first paragraph, written description requirement.

Appellants have not separately argued any particular claim on appeal. The claim language at issue is common to all appealed claims. Accordingly, all the appealed claims stand or fall together with claim 1.

We have thoroughly reviewed each of Appellants' arguments for patentability. However, we find that the Examiner's rejection is free of

reversible error and in accord with current patent jurisprudence.

Accordingly, we will sustain the Examiner's rejections for essentially those reasons expressed in the Answer.

We agree with the Examiner that the claim 1 recitation "without homogenizing a region of the substrate located laterally adjacent the homogenized region", and similar language in independent claims 13 and 14, does not have written descriptive support in the original Specification as filed. Appellants point to no particular language in the original Specification which would reasonably convey to one of ordinary skill in the art that Appellants had in their possession the concept that substrate 1, adjacent to coating layer 13, is not homogenized during the irradiation step. We are not persuaded by Appellants' argument that "the substrate is represented identically in all of figures 1a-d thereby showing that 'melting and homogenizing a region of the substrate located laterally adjacent the homogenized region' has not occurred" (Br. 6, penultimate para.). As pointed out by the Examiner, "if the laterally adjacent region of the substrate *was* homogenized, then what would the Figures look like?" (Ans. 8, third para.). We agree with the Examiner that "[t]here is no reason why it would not look like Applicants' Figs. 1c and 1d" (*id.*).

We find this especially to be the case since Appellants' Specification provides no definition for a homogenized substrate or, for that matter, a non-homogenized substrate. As such, one of ordinary skill in the art would not be able to ascertain from Appellants' Figures whether the substrate is homogenized or not-homogenized. A substrate may be homogenized on a microscopic level that is not perceivable by the naked eye. Hence, since Appellants' Specification is silent on the homogenized state of the substrate

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before and after irradiation, it cannot be reasonably concluded that the original Specification provides written descriptive support within the meaning of § 112, first paragraph, for the claim recitation at issue.

In conclusion, based on the foregoing and the reasons well stated by the Examiner, the Examiner's decision rejecting the appealed claims is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a) (2008).

AFFIRMED

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